

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

James C. Bilbrey ET AL
Overton County Cable TV
712 East Main Street
Livingston, Tennessee

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File Number EB-02-AT-266
NAL/Acct. No. 200232480015
FRN 0007-5632-24

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: August 26, 2002

By the Enforcement Bureau, Atlanta Office:

I. INTRODUCTION

1. In this *Notice of Apparent Liability for Forfeiture*, we find that James C. Bilbrey ET AL, Overton County Cable TV ("Overton") willfully and repeatedly violated Section 76.605(a)(12) of the Commission's Rules ("Rules")¹ and willfully violated Section 76.611(a)(1) of the Rules² relating to cable television signal leakage. We conclude that James C. Bilbrey ET AL, Overton County Cable TV is apparently liable for a forfeiture in the amount of eight thousand dollars (\$8,000).

II. BACKGROUND

2. On July 10, 2002, an agent from the FCC Enforcement Bureau's Atlanta Field Office conducted a cable television signal leakage inspection of Overton's cable system located in Livingston, Tennessee. The agent found that, at sixteen locations, cable signal leakage on the frequency 121.275 MHz significantly exceeded 20 microvolts per meter ($\mu\text{V/m}$) at a distance of at least three meters from each leakage, in violation of Section 76.605(a)(12) of the Rules. The measured leaks ranged from 652 $\mu\text{V/m}$ to 1055 $\mu\text{V/m}$. Based on these measurements, the agent calculated the system's cumulative leakage index ("CLI") at a value of 70.6, exceeding the allowed cumulative signal leakage performance criteria of 64, in violation of Section 76.611(a)(1) of the Rules.³ (See Attachment A.)

III. DISCUSSION

3. Section 76.605(a)(12) of the Rules requires cable operators to limit signal leakage in the frequency band from 54 MHz up to and including 216 MHz to 20 $\mu\text{V/m}$ at a distance of 3 meters. On

¹ 47 C.F.R. § 76.605(a)(12).

² 47 C.F.R. § 76.611(a)(1).

³ The calculated CLI included only leaks greater than 50 $\mu\text{V/m}$, included leaks found in only 10 miles or 6% of the system inspected, and assumed no leaks in the 94% of the system not checked.

July 10, 2002, Overton exceeded this limit at sixteen locations on its system in Livingston, Tennessee. Section 76.611(a)(1) of the Rules requires cable operators to limit the CLI to a value at or below 64. On July 10, 2002, Overton's cable system in Livingston, Tennessee operated with a CLI value of 70.6.

4. Based on the evidence before us, we find that on July 10, 2002, James C. Bilbrey ET AL, Overton County Cable TV willfully⁴ and repeatedly⁵ violated Section 76.605(a)(12) of the Rules, and willfully violated Section 76.611(a)(1) of the Rules.

5. Pursuant to Section 1.80(b)(4) of the Rules, the base forfeiture amount for the violations cited in this notice is \$8,000 (violation of rules relating to distress and safety frequencies).⁶ Section 503(b)(2)(D) of the Communications Act of 1934, as amended ("Act"), requires us to take into account "... the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require."⁷ Considering the entire record and the factors listed above, this case warrants an \$8,000 forfeiture.

IV. ORDERING CLAUSES

6. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act⁸ and Sections 0.111, 0.311 and 1.80 of the Rules,⁹ James C. Bilbrey ET AL, Overton County Cable TV is hereby NOTIFIED of its APPARENT LIABILITY FOR A FORFEITURE in the amount of eight thousand dollars (\$8,000) for willful and repeated violation of Section 76.605(a)(12) of the Rules and willful violation of Section 76.611(a)(1) of the Rules.

7. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Commission's Rules, within thirty days of the release date of this *NOTICE OF APPARENT LIABILITY*, James C. Bilbrey ET AL, Overton County Cable TV SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

8. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The

⁴ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies equally to Section 503(b) of the Act, provides that "[t]he term 'willful,' when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act" See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

⁵ The term "repeated" means the commission or omission of an act more than once or, if such commission or omission is continuous, for more than one day. 47 U.S.C. § 312(f)(2).

⁶ 47 C.F.R. § 1.80(b)(4).

⁷ 47 U.S.C. § 503 (b)(2)(D).

⁸ 47 U.S.C. § 503(b).

⁹ 47 C.F.R. §§ 0.111, 0.311, 1.80.

payment MUST INCLUDE the NAL/Acct. No. and FRN referenced in the letterhead above.

9. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street, SW, Washington, DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division, and MUST INCLUDE THE NAL/Acct. No. and FRN referenced in the letterhead above.

10. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

11. Requests for payment of the full amount of this *Notice of Apparent Liability* under an installment plan should be sent to: Federal Communications Commission, Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.¹⁰

12. IT IS FURTHER ORDERED THAT a copy of this *NOTICE OF APPARENT LIABILITY* shall be sent by regular mail and Certified Mail Return Receipt Requested to James C. Bilbrey ET AL, Overton County Cable TV, at 712 East Main Street,, Livingston, TN 38570.

FEDERAL COMMUNICATIONS COMMISSION

Fred L. Broce
District Director
Atlanta Office, Enforcement Bureau

¹⁰ See 47 C.F.R. § 1.1914.

James C. Bilbrey, Overton County Cable TV

NAL Acct. No. 200232480015

ATTACHMENT A

FIELD STRENGTH MEASUREMENTS OF OVERTON COUNTY CABLE TV, LIVINGSTON, TN

MEASUREMENT DATE: JULY 10, 2002

FREQUENCY: 121.275 MHZ

	Measurement Location	Leakage Field Strength, $\mu\text{V/m}$
1	E. Cedar St. @ Windle St.	980
2	Pole at 207 E. Cedar St.	667
3	Sevier St. @ Tayes St.	756
4	210 Keaton St.	697
5	218 Tanglewood St.	832
6	205 Bussell St.	1010
7	613 Burgess St.	936
8	607 Burgess St.	907
9	E. 7 th St. @ Preston St.	712
10	Across from 813 Preston St.	890
11	808 N. Goodpasture St.	832
12	E. 7 th St. @ Oak Heights	1055
13	Water St. @ Hi-Tech Drive	652
14	Oak St. @ College St.	996
15	Just West of 932 W. 6 th St.	682
16	Hi-Tech Drive @ Apple Drive	727